

located where failure would not be expected to cause loss of life or serious property damage, except where:

(i) Impoundments meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of § 77.216(a) of this title shall be designed to control the precipitation of the probable maximum precipitation of a 6-hour event, or greater event specified by the regulatory authority.

(ii) Impoundments not included in paragraph (c)(2)(i) of this section shall be designed to control the precipitation of the 100-year 6-hour event, or greater event specified by the regulatory authority.

[48 FR 44004, Sept. 26, 1983, as amended at 50 FR 16200, Apr. 24, 1985; 53 FR 43605, Oct. 27, 1988; 59 FR 53029, 53030, Oct. 20, 1994; 66 FR 14317, Mar. 12, 2001]

§ 816.56 Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning a permit area or seeking bond release, the operator shall ensure that all temporary structures are removed and reclaimed, and that all permanent sedimentation ponds, diversions, impoundments, and treatment facilities meet the requirements of this chapter for permanent structures, have been maintained properly, and meet the requirements of the approved reclamation plan for permanent structures and impoundments. The operator shall renovate such structures if necessary to meet the requirements of this chapter and to conform to the approved reclamation plan.

[48 FR 44005, Sept. 26, 1983]

§ 816.57 Hydrologic balance: Activities in or adjacent to perennial or intermittent streams.

(a)(1) *Buffer requirement.* Except as provided in paragraph (b) of this section and consistent with paragraph (a)(2) of this section, you, the permittee or operator, may not conduct surface mining activities that would disturb the surface of land within 100 feet, measured horizontally, of a perennial or intermittent stream, unless the regulatory authority authorizes you to do so under § 780.28(e) of this chapter.

(2) *Clean Water Act requirements.* Surface mining activities, including those activities in paragraphs (b)(1) through (b)(4) of this section, may be authorized in perennial or intermittent streams only where those activities would not cause or contribute to the violation of applicable State or Federal water quality standards developed pursuant to the Clean Water Act, as determined through certification under section 401 of the Clean Water Act or a permit under section 402 or 404 of the Clean Water Act.

(b) *Exception.* The buffer requirement of paragraph (a) of this section does not apply to those segments of a perennial or intermittent stream for which the regulatory authority, in accordance with § 780.28(d) of this chapter or § 816.43(b)(1) of this part, approves one or more of the activities listed in paragraphs (b)(1) through (b)(4) of this section.

(1) Diversion of a perennial or intermittent stream. You must comply with all other applicable requirements of the regulatory program, including the requirements of § 816.43(b) of this part for the permanent or temporary diversion of a perennial or intermittent stream.

(2) Placement of bridge abutments, culverts, or other structures in or within 100 feet of a perennial or intermittent stream to facilitate crossing of the stream by roads, railroads, conveyors, pipelines, utilities, or similar facilities. You must comply with all other applicable requirements of the regulatory program, including the requirements of §§ 816.150, 816.151, and 816.181 of this part, as appropriate.

(3) Construction of sedimentation pond embankments in a perennial or intermittent stream. This provision extends to the pool or storage area created by the embankment. You must comply with all other applicable requirements of the regulatory program, including the requirements of § 816.45(a) of this part. Under § 816.56 of this part, you must remove and reclaim all sedimentation pond embankments before abandoning the permit area or seeking final bond release unless the regulatory authority approves retention of the pond as a permanent impoundment

§ 816.59

under § 816.49(b) of this part and provisions have been made for sound future maintenance by the permittee or the landowner in accordance with § 800.40(c)(2) of this chapter.

(4) Construction of excess spoil fills and coal mine waste disposal facilities in a perennial or intermittent stream. You must comply with all other applicable requirements of the regulatory program, including the requirements of paragraphs (a) and (f) of § 816.71 of this part for excess spoil fills and the requirements of §§ 816.81(a), 816.83(a), and 816.84 of this part for coal mine waste disposal facilities.

(c) *Additional clarifications.* All surface mining activities conducted in or within 100 feet of a perennial or intermittent stream must comply with paragraphs (b)(10)(B)(i) and (b)(24) of section 515 of the Act and the regulations implementing those provisions of the Act, including—

(1) The requirement in § 816.41(d)(1) of this part that surface mining activities be conducted according to the plan approved under § 780.21(h) of this chapter and that earth materials, ground-water discharges, and runoff be handled in a manner that prevents, to the extent possible using the best technology currently available, additional contribution of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution.

(2) The requirement in § 816.45(a) that appropriate sediment control measures be designed, constructed, and maintained using the best technology currently available to prevent, to the extent possible, additional contributions of sediment to streamflow or to runoff outside the permit area.

(3) The requirement in § 816.97(a) of this part that the operator must, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish and wildlife and related environmental values and achieve enhancement of those resources where practicable.

(4) The requirement in § 816.97(f) of this part that the operator avoid disturbances to, enhance where practicable, restore, or replace wetlands, habitats of unusually high value for fish and wildlife, and riparian vegeta-

30 CFR Ch. VII (7–1–11 Edition)

tion along rivers and streams and bordering ponds and lakes.

[73 FR 75883, Dec. 12, 2008]

§ 816.59 Coal recovery.

Surface mining activities shall be conducted so as to maximize the utilization and conservation of the coal, while utilizing the best appropriate technology currently available to maintain environmental integrity, so that re-affecting the land in the future through surface coal mining operations is minimized.

§ 816.61 Use of explosives: General requirements.

(a) Each operator shall comply with all applicable State and Federal laws and regulations in the use of explosives.

(b) Blasts that use more than 5 pounds of explosive or blasting agent shall be conducted according to the schedule required under § 816.64.

(c) *Blasters.* (1) No later than 12 months after the blaster certification program for a State required by part 850 of this chapter has been approved under the procedures of subchapter C of this chapter, all blasting operations in that State shall be conducted under the direction of a certified blaster. Before that time, all such blasting operations in that State shall be conducted by competent, experienced persons who understand the hazards involved.

(2) Certificates of blaster certification shall be carried by blasters or shall be on file at the permit area during blasting operations.

(3) A blaster and at least one other person shall be present at the firing of a blast.

(4) Any blaster who is responsible for conducting blasting operations at a blasting site shall:

(i) Be familiar with the blasting plan and site-specific performance standards; and

(ii) Give direction and on-the-job training to persons who are not certified and who are assigned to the blasting crew or assist in the use of explosives.

(d) *Blast design.* (1) An anticipated blast design shall be submitted if blasting operations will be conducted within—